

Burlington Development Review Board

149 Church Street, City Hall
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Austin Hart
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Israel Smith
A. J. LaRosa
Alexandra Zipparo
Geoff Hand
Jim Drummond (Alt.)



BURLINGTON DEVELOPMENT REVIEW BOARD

Tuesday, July 7, 2015, 5:00 p.m.

Contois Auditorium, City Hall, 149 Church Street, Burlington, VT

Minutes

Board Members Present: Austin Hart, Jonathan Stevens, Israel Smith, A.J. LaRosa, Alexandra Zipparo, Geoff Hand

Board Members Absent: J.Drummond

Staff Members Present: Ken Lerner, Mary O'Neil, Anita Wade

I. Agenda

No Changes.

II. Communications

None.

III. Minutes

Provided in Packet

IV. Public Hearing

1. 15-1219AP; 111 Colchester Ave (UC, Ward 1) Fletcher Allen Health Care, Inc.

Appeal for Code Enforcement Decision of an unsubstantiated complaint pertaining to the construction by the Medical Center on an acre of land zoned for university use. (Project Manager, Ken Lerner)

K.Lerner: Presented on behalf of the Code Enforcement and the City giving a brief summary. The appeal is based on a final code determination of May 12th.

M.Lang; the appellant and owner at 138 Colchester Ave and owner of five adjacent properties showed a display speaking to overlay districts.

M.Lang; spoke about overlay districts in the institutional zone. Said staff notes the distinction between the schools and hospital uses pertaining to 4.5.2 (b)(a). She is not appealing the project, nor objecting to the one acre lot line adjustment. She has nothing negative to say about UVM. Stated there is a need for a land use change. She mentioned that only the planning commission is authorized to do change a use according to the zoning code, referencing 12.1.1. Spoke about conditions regarding the permit in reference to the ordinance 14-2.1(c)(a). Said it is a material fact that the change of use must be reviewed for major impact. The hospital cannot get a certificate of appropriateness without a use change. The DRB should enforce the laws and invalidate this permit. She gave a packet for staff to distribute to the Board. Asks the City to enforce its own laws. There would be a possible loss of jobs if a court injunction is declared because the work on this project has to stop due to an appeal. Intends to appeal decision based on the need for a land use change regarding university land not being changed to reflect as hospital land. Mentioned concern about the Mayor's support for the project.

AJLaRosa; said the property transferred was not the use applied for
BRabinowitz; asked appellant if she was opposed to the project.

M.Lang; said she supports the project, but opposed to hospital getting a zoning permit without a use change.

J.Stevens; your complaint is that it's being used as a hospital rather than a school?

M.Lang; said her opposition is to the zoning use change dedicated to UVM ICC, needs to be changed to Fletcher Allen Institutional Care. Hospital is getting a 'pass' regarding the settlement offer of 6/4/15.

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JStevens; definition of school; hospital is accessory to institution of University as a teaching hospital.
M.Lang; spoke to definition in ordinance and said if accessory use is in two zones all institutions would be accessory to each other.
G.Hand; questioned if she supported and participated in the original hearing and if she raised this issue.
M.Lang; said yes, but the issue was not being addressed at that time.
M.Lang; distributes packet to staff.
G.Hand; asked if she appealed the original permit?
M.Lang; answered 'no' she did the other permit.
K.Lerner; said land use change is not a permit and that the need for the change was recognized at the time of the hearing. Said it would be finalized once lot line adjustment was completed to reflect overlay line. This was disclosed at the hearing pertaining to the hospitals conditional use.
B.Rabinowitz; asks what this means and would it be adjusted?
A.Ziparro; asked if there was a zoning change during the ordinance committee?
K.Lerner; said they had not met recently.
G.Hand; questioned if it was necessary to adjust zoning and if it was reasonable for appellant to think this could happen?
K.Lerner; yes this will happen, but only upon condition of approval was lot line adjustment.
S.Buser; wanted to go on the record about her concerns with the process on boundary line adjustments between two different zones. She asked about the communications and processes available to applicants as they move forward to apply for lot line adjustments. Questioned if this situation is unique. She requests for communications from attorneys to be distributed with the clear understanding about the process.
The public hearing was closed at 5.24pm

2. **15-0922CA/MA; 451 Appletree Point Road (RL, Ward 4N) Alfred Senecal**
Re-opened. Demolition of existing structures, construct new duplex, associated site improvements and lot line adjustment. (Project Manager, Scott Gustin)
15-0923CA/MA; 465 Appletree Point Road (RL, Ward 4N) Alfred Senecal
Re-opened. New residential duplex, utilities and driveway (Project Manager, Scott Gustin)

B.Rabinowitz recused. A.Hart was absent and recused.

J.Stevens; said there would be a limit to the testimony regarding the extent of encroachment within 451 of the setback.
B.Rabinowitz; speaking as representative for applicants, said the hearing was reopened with special request to regarding existing site plan. At the last hearing, a colored site plan was distributed pertaining to the existing lot coverage on the existing road. There was some confusion regarding the existing and proposed lot coverage. The map indicates setbacks where the entire buildable area is within setback. The display showed setbacks mostly within 75' setback. The lot coverage numbers are small.
J.Stevens; said lot coverage isn't the issue.
B.Rabinowitz; lot coverage regarding within 75' setback was the issue.
J.Stevens; what's needed is clarification on parking and lot size, not structures.
B.Rabinowitz; said the approval of the 451 lot had to be limited to area of the existing structure regarding the property.
J.Stevens; spoke about the definition of a parking structure.
B.Rabinowitz; said there was no limit to size of structure for 465 lot.
J.Stevens; said Board was only considering lot coverage pertaining to the question from resident.
L.Larson; as a resident of 506 Appletree Pt Rd, he does not see how Board comes to conclusion that structures can be within 75' from Lake. He was asking board to deny appeal based on what is clearly stated in regulations for new lots.

J.Haig; as resident of 22 Appletree Pt Rd and President of Neighborhood Association wanted to go on record as an opponent to the project feeling that the numbers are off. B.Rabinowitz; said the project was approved based on the setbacks according for the existing and pre-existing lot. Said these setbacks were agreed to a year ago prior to his involvement with the project

A.Zipparo; asked for clarification regarding 75' setback.

J.Stevens; said the Board approved a variance last year.

B.Rabinowitz; the lakefront setback did not conform since it was grandfathered as an existing structure and therefore this was not actually a variance for a lakeshore setback.

AJ.LaRosa; according to language, no variance was necessary due to setback approval.

L.Larson; said the packet dating back to 2004 when Board denied a 3 lot subdivision and created new a two lot subdivision. He had commented a year ago and had asked Board to do a site visit.

M.Oneil; Reminded speakers to sign in on the attendance sheet. Said she would speak on behalf of Scott since he was not present tonight. She was aware of Scott acknowledging that this lot was created under different zoning ordinance noting that the new project request is being reviewed under the new ordinance.

J.Stevens; Closed public hearing at 5:42pm

The Deliberative session will be next Monday, July 13, 2015 at 5:00pm.

V. Other Business

1. Annual Organizational Meeting
2. Training Topics Discussion

Discussion ensued on possible Board training topics:

M.Oneil; asked Board members which topics were of interest for training sessions.

AJLaRosa; like to have sessions on meeting procedures, time limitations, Bianchi, Westro decision, enforceable vs grandfathering; deliberative process; and appeals.

J.Stevens; ordinance encourages site visits. Questioned when something should be said regarding new evidence and the way to inform and to ask questions.

AJ.LaRosa; agrees with doing site visits for training purposes.

B.Rabinowitz; would like more information about statute of limitations.

K.Lerner; videos are available and posted online. Sees benefit in photographing the project for the Board.

A.Zipparo; mentioned parking show be included.

M.ONEil; agreed it was good idea to stay current with parking studies.

B.Rabinowitz; good to know how things have worked out from other parking studies.

M.ONEil; the studies gives a limited review of the parking issue.

B.Rabinowitz; asked about 4 trainings

M.ONEil; mentioned how trainings could be scheduled following the regular meetings.

B.Rabinowitz; mentioned how he appreciated the breakdown of packets of information by staff.

A.Zipparo; said she finds it easier to get the information rather than IPhone.

I.Smith; said his priority were the topics on the top of the handout, but that all were relevant and liked the way they were ranked on the sheet.

AJ.LaRosa; asked for architectural training.

M.ONEil; could provide additional information on materials and style.

AJLaRosa; agreed to materials and specifications

K.Lerner; said Board can advertise as a work session and participate off sight.

A.Zipparo; spoke about the quality being poor with the call in and wondered if this can this be changed.

M.ONEil; said this can be pursued, but was not sure if this can happen.

A.Zipparo; said she knows that City Councilors do this.

A.Hart; at this point, arrived from a previous meeting. Mentioned that Scott sent out a meeting notice regarding the need to create appointments. The Board needs to vote on the appointment of a clerk. J.Stevens nominated A.Wade. A.Zipparo seconded the motion. Vote was 7-0 for endorsement of A.Wade as zoning clerk.

Board then discussed Chairperson's position.
 B.Rabinowitz; nominated A.Hart for Chair. Jonathan expressed concerns about the frequency A.Hart's recusals and would like others to have an opportunity.
 A.Hart; is aware of circumstances and said the City Council is aware as well.
 AJ.LaRosa; offered to chair meetings.
 A.Hart; enjoys being Chair and mindful of what JStevens said. Thinks it would be good to have other Board members to rotate for succession purposes.
 A.Hart; nominates AJ.LaRosa which is seconded by JStevens.
 AJ.LaRosa; said it was wise to have different voices and feels he recuses himself less often on projects. Agreed it was good to have others rotate in positions.
 G.Hand questions the recusal procedure when the Chair needs to recuse.
 Vote for Chairperson:
 4 in favor of A.Hart; 3 in favor of AJ.LaRosa
 Vote for Vice-Chairperson was 6-0 in favor of B.Rabinowitz
 J.Stevens spoke about the ordinance committee.
 K.Lerner; said Scott suggested a morning meeting or scheduling a different day, since attendance has been poor.
 A.Zipparo; asked if it would be between 8-5pm.
 J.Stevens; said Scott will be managing the committee.
 AHart; said it is important for the Board to see the grand vision of the city.
 Vote: unanimous vote for J.Stevens to represent the Ordinance Committee.
 A.Hart; that a procedure be established.
 AJ.LaRosa; spoke about the long range planning committee meetings and long term planning projects to provide input into projects such as the South end and Waterfront project and updating master planning projects.
 Vote 7-0 for AJ.LaRosa to be representative for the long range planning projects committee. All five positons were filled.

A.Hart; Adjourned the meeting at 6:14pm.

VI. Adjournment

 A.Hart, Chair, Development Review Board

 Date

 Anita Wade, Planning and Zoning Clerk

 Date

Applications and Plans may be viewed in the Planning and Zoning office, (City Hall, First Floor, 149 Church Street, Burlington), between the hours of 8:00 a.m. and 4:30 p.m.

All staff comments, plans and supporting documents will be available on the Planning and Zoning website at: www.burlingtonvt.gov/pz/drbb/agendas approximately one week before the hearing.

Participation in the DRB proceeding is a prerequisite to the right to take any subsequent appeal. Please note that ANYTHING submitted to the Planning and Zoning office and Development Review Board is considered public and cannot be kept confidential.

This agenda is distributed to: adjacent property owners of projects before the Development Review Board, Neighborhood Planning Assemblies, City Councilors, City Departments and interested parties. You may direct written comments to the Planning and Zoning Department, at the above address. Inquiries may be made by calling 865-7188. Oral comments may be given at the meeting by any persons on any project listed on the Agenda.